

A bill for an act

relating to juvenile justice; prohibiting the preadjudication detention of certain children; requiring a risk assessment instrument to assist in preadjudication detention release decisions; requiring community-based noncustodial supervision options for children released from preadjudication detention; appropriating money; amending Minnesota Statutes 2008, sections 260B.176, subdivision 1, by adding subdivisions; 260B.178, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 260B.176, subdivision 1, is amended to read:

Subdivision 1. **Notification; release.** (a) If a child is taken into custody as provided in section 260B.175, the parent, guardian, or custodian of the child shall be notified as soon as possible. ~~Unless~~ If the risk assessment instrument described in subdivision 1a indicates there is reason to believe that the child would endanger ~~self or others; or~~ not return for a court hearing, ~~run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered;~~ the child shall be ~~released~~ kept in custody or placed in a suitable noncustodial community-based alternative supervision setting as described in subdivision 1b, whichever is appropriate considering the child's risk assessment score. If there is reason to believe that the child might endanger the child's self; that the child might run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released; or that the child's health or welfare would be immediately endangered, the child may not be kept in custody but instead shall be placed in a suitable noncustodial

community-based alternative supervision setting. In all other situations, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person.

(b) The person to whom the child is released shall promise to bring the child to the court, if necessary, at the time the court may direct. If the person taking the child into custody believes it desirable, that person may request the parent, guardian, custodian, or other person designated by the court to sign a written promise to bring the child to court as provided above. The intentional violation of such a promise, whether given orally or in writing, shall be punishable as contempt of court.

The court may require the parent, guardian, custodian, or other person to whom the child is released, to post any reasonable bail or bond required by the court which shall be forfeited to the court if the child does not appear as directed. The court may also release the child on the child's own promise to appear in juvenile court.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 2. Minnesota Statutes 2008, section 260B.176, is amended by adding a subdivision to read:

Subd. 1a. **Risk assessment instrument.** A person making a release decision under subdivision 1 shall use an objective and racially, ethnically, and gender-responsive juvenile detention risk assessment instrument developed by the commissioner, county, group of counties, or judicial district. The risk assessment instrument must assess the likelihood that a child released from preadjudication detention under section 260B.176 or 260B.178 would endanger others or not return for a court hearing. The instrument must identify the appropriate setting for a child who might endanger others or not return for a court hearing pending adjudication, with either continued detention or placement in a noncustodial community-based supervision setting. The instrument must also identify the type of noncustodial community-based supervision setting necessary to minimize the risk that a child who is released from custody will endanger others or not return for a court hearing.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 3. Minnesota Statutes 2008, section 260B.176, is amended by adding a subdivision to read:

Subd. 1b. **Community-based supervision options.** Each county or group of counties shall provide suitable noncustodial community-based alternative supervision options for children released from custody under subdivision 1. The options must involve less restrictive noncustodial-based means to supervise children who without proper

supervision may endanger the children's selves or others; who may not return for a court hearing, run away from their parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released; or whose health or welfare might be in immediate danger. The options required under this subdivision must address the different supervision needs of the described children.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 4. Minnesota Statutes 2008, section 260B.178, subdivision 1, is amended to read:

Subdivision 1. **Hearing and release requirements.** (a) The court shall hold a detention hearing:

(1) within 36 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, if the child is being held at a juvenile secure detention facility or shelter care facility; or

(2) within 24 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, if the child is being held at an adult jail or municipal lockup.

(b) ~~Unless~~ If the court determines there is reason to believe that the child would endanger self or others; ~~or not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered;~~ the child shall be ~~released~~ kept in custody or placed in a suitable noncustodial community-based alternative supervision setting as described in section 260B.176, subdivision 1b. In making this determination, the court shall consider the child's score from the risk assessment instrument described in section 260B.176, subdivision 1a. If there is reason to believe that the child might endanger the child's self; that the child might run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released; or that the child's health or welfare would be immediately endangered, the child may not be kept in custody but instead shall be placed in a suitable noncustodial community-based alternative supervision setting. In all other situations, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260B.157, subdivision 1, and a children's mental health screening as provided in section 260B.176, subdivision 2, paragraph (e). In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 5. **ADOPTION OF JUVENILE DETENTION RISK ASSESSMENT INSTRUMENT.**

Subdivision 1. Adoption required. By September 15, 2009, the commissioner of corrections shall adopt an objective and racially, ethnically, and gender-responsive juvenile detention risk assessment instrument. The instrument must assess the likelihood that a child released from preadjudication detention under section 260B.176 or 260B.178 would endanger others or not return for a court hearing. The instrument must be designed to identify the appropriate setting for a child who might endanger others or not return for a court hearing pending adjudication, with either continued detention or placement in a noncustodial community-based supervision setting. The instrument must also identify the type of noncustodial community-based supervision setting necessary to minimize the risk that a child who is released from custody will endanger others or not return for a court hearing.

Subd. 2. Consultation required. In adopting the risk assessment instrument required in subdivision 1, the commissioner of corrections shall consult and collaborate with the commissioners of public safety and human services and individuals throughout the state who are knowledgeable in matters relating to the detention and treatment of juvenile offenders and at-risk juveniles including, but not limited to, individuals from the courts, probation, law enforcement, prosecutorial offices, public defender's offices, communities of color, social services, juvenile detention and shelter care facilities, and juvenile residential treatment and correctional facilities. The commissioner shall also review similar risk assessment instruments in use both inside and outside of the state.

Subd. 3. Dissemination required. The commissioner of corrections shall make the risk assessment instrument required in this section available to law enforcement, correctional, and court personnel throughout the state.

Subd. 4. Local instruments required. By January 1, 2010, each county, group of counties, or judicial district making a decision related to the release or detention of a child under section 260B.176 or 260B.178 shall either adopt the instrument developed by the commissioner of corrections or develop a risk assessment instrument of their own meeting the requirements described in subdivision 1.

Sec. 6. **EFFECT ON RULES OF JUVENILE DELINQUENCY PROCEDURE.**

5.1 Rules 5.04 and 5.07 of the Rules of Juvenile Delinquency Procedure are superceded
5.2 to the extent of their conflict with sections 1 to 5. The Supreme Court is requested to
5.3 amend the rules in a manner consistent with sections 1 to 5.

5.4 **EFFECTIVE DATE.** This section is effective January 1, 2010.

5.5 Sec. 7. **APPROPRIATION; GRANTS.**

5.6 Subdivision 1. **Appropriations.** \$..... for the fiscal year ending June 30, 2010, and
5.7 \$..... for the fiscal year ending June 30, 2011, are appropriated from the general fund
5.8 to the commissioner of corrections to adopt the risk assessment instrument required in
5.9 Minnesota Statutes, section 242.325, and to make the grants required under subdivision 2.

5.10 Subd. 2. **Grants.** The commissioner of corrections shall make grants to counties to
5.11 develop and provide the noncustodial community-based alternative supervision options
5.12 required in Minnesota Statutes, section 260B.176, subdivision 1b. By January 15, 2012,
5.13 the commissioner shall report to the chairs and ranking minority members of the senate
5.14 and house of representatives committees and divisions having jurisdiction over juvenile
5.15 justice policy and funding on the grants made under this subdivision. The report must
5.16 identify the options funded by the grants and assess how well the options are working.